

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 247 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements?

[ 2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy  
of the judgement?

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

MANORAMA SARABHAI TRUST NO.3

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Appearance:

Mr. Pranav G Desai for MR MANISH R BHATT for Petitioner  
D.A.Mehta & R K Patel for respondent.

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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 02/02/98

ORAL JUDGEMENT

The Income-Tax Appellate Tribunal,  
Ahmedabad has referred the following two questions, the  
first being at the instance of Revenue and the second at  
the instance of the assessee for the opinion of this  
Court under the provisions of Section 256(1) of the  
Income Tax Act, 1961.

At the instance of Revenue:

"Whether the Appellate Tribunal is right in law

and on facts in holding that when the assessee received shares, debentures and bonds of amalgamated companies, there was no transfer under section 2(47) of the Income-Tax Act and consequently no capital gains tax could be charged ? "

At the instance of the assessee:

Whether, on the facts and circumstances of the case, the Tribunal was right in law in holding that the assessee was not entitled to exemption under section 47 (vii) of the Income-Tax Act, 1961 ? "

2. For the reasons given by us in the judgment delivered today in ITR No.221 of 1995 in the case of an assessee belonging to the same group as in this matter which raises an identical question in the background of similar facts, we leave the question referred to us at the instance of Revenue, as unanswered, and, answer the question referred to us at the instance of assessee in the affirmative and against assessee and in favour of the Revenue. The Reference stands disposed of accordingly with no order as to costs.

(R.K.Abichandani,J) (Kundan Singh,J)

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